

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

JAMES WINDING and  
NIGEL MCCLAIN

PLAINTIFFS

V.

CIVIL ACTION NO. 3:13CV431 DPJ-FKB

GRIFFIN ET AL.

DEFENDANTS

ORDER

This cause is before the Court on two Reports and Recommendations [24, 25] entered by Magistrate Judge F. Keith Ball. Plaintiff James Winding has filed Objections [27, 28, 29], which he styled as “motions” to object. Winding has also filed an additional motion [26], since the entry of the Reports and Recommendations, which is also addressed in this Order.

I. Motion to Continue Case *In Forma Pauperis* Status

Winding initially filed this suit in state court, and Defendants removed the case and paid the federal filing fee. Following removal, Winding moved to prosecute this action *in forma pauperis* [6], which Judge Ball recommended [24] denying. On December 18, 2013, Winding filed a “Motion to Supplement to Arrest of Report and Recommendation” [29], in which he points out that Magistrate Judge Roper held in another of Winding’s cases that his motion to proceed *in forma pauperis* was moot because Defendants paid the filing fee upon removal to federal court. *See* Order [35], *Winding v. Vincent*, Civil Action No. 3:13cv425 TSL-JMR. The Court construes this filing as Winding’s request to withdraw his motion to proceed *in forma pauperis* [6] in this action. His request to withdraw [29] is **granted**. Alternatively, the Court agrees that the motion [6] can be **considered moot**.

Likewise, Winding's additional objections, which were docketed as motions [27, 28] and relate to his motion to proceed *in forma pauperis*, are also **considered moot**.

II. Motion for Partial Summary Judgment

Second, Judge Ball recommended [25] that Winding's motion for partial summary judgment [10] be denied. Winding has not filed an Objection addressing this finding, and the time to do so has now passed. The Court agrees with Judge Ball's findings, **adopts** the unopposed Report and Recommendation [25], and **denies** Winding's motion for partial summary judgment [10]. In addition, Defendants' motion to strike [14] Winding's motion for partial summary judgment can be **terminated**.

III. Additional Motion

Winding's recently-filed "Motion to Amend and Submit New Evidence of On-Going Corruption Within MTC and MDOC Offical(s) [sic]" [26] is **denied**. To this motion, Winding attaches various news articles printed from the internet that he insists "will prove a pattern at best of deliberate indifference." But "newspaper articles [are] classic, inadmissible hearsay." *Roberts v. City of Shreveport*, 397 F.3d 287, 295 (5th Cir. 2005) (rejecting attempt to use newspaper articles to show a pattern of unconstitutional activity necessary to prove deliberate indifference); *see James v. Tex. Collin Cnty.*, 535 F.3d 365, 374 (5th Cir. 2008) ("Newspaper articles, however, are not proper summary judgment evidence to prove the truth of the facts that they report because they are inadmissible hearsay."). The proposed evidence is inadmissible hearsay; Winding's request [26] is **denied**.

**SO ORDERED AND ADJUDGED** this the 19<sup>th</sup> day of December, 2013.

s/ Daniel P. Jordan III  
UNITED STATES DISTRICT JUDGE